

Claimant appeared by his attorney, James B. Zongker of Wichita, Kansas. The respondent and its insurance carrier appeared by their attorney, Edward D. Heath, Jr. of Wichita, Kansas. The Workers Compensation Fund appeared by its attorney, Matthew L. Bretz of Hutchinson, Kansas.

RECORD AND STIPULATIONS

The record considered by the Appeals Board and the parties' stipulations are listed in the Award.

ISSUES

The Administrative Law Judge awarded claimant permanent partial disability benefits for a 25 percent functional impairment to the right upper extremity. The Workers Compensation Fund requested review of the finding of nature and extent of disability. That is the sole issue before the Appeals Board upon this review.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board finds:

The Award entered by the Administrative Law Judge should be affirmed.

On January 9, 1991 claimant fell ten feet and landed upon and injured his right wrist. Both doctors who examined claimant agree that claimant sustained a hairline fracture to the scaphoid which has healed leaving no permanent functional impairment. The principle issue is whether the fall aggravated a pre-existing degenerative condition in the wrist.

Orthopedic hand surgeon Jay Stanley Jones, M.D. testified that he began treating claimant in January 1991 after the accident and ultimately recommended a wrist fusion to stabilize the wrist and alleviate the pain. Dr. Jones testified he believes claimant did not sustain additional impairment to his wrist in the January 1991 fall and that claimant would have needed the wrist fusion sometime in the future regardless of the fall.

Ernest R. Schlachter, M.D., testified that he believes claimant did aggravate pre-existing degenerative changes in the right wrist in the fall and that claimant has sustained a 25 percent permanent partial impairment of function to the right upper extremity. Dr. Schlachter based his opinion on the mechanism of injury and the fact that claimant's right wrist symptoms were significantly increased by the fall.

The Appeals Board agrees with the conclusion of the Administrative Law Judge that claimant permanently aggravated the degenerative condition in his right wrist. The Appeals Board finds that before the January 1991 fall claimant had only occasional problems with his wrist. However, after the January 1991 accident he experienced increased symptoms of pain and crepitus and has been forced to limit his work activities. Although claimant had broken a bone in the right wrist approximately three or four years before January 1991, claimant did not require medical treatment for the wrist after the fracture initially healed and

worked without medical restrictions and limitations. As did the Administrative Law Judge, the Appeals Board finds claimant's and Dr. Schlachter's testimony persuasive.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Nelsonna Potts Barnes dated November 22, 1994, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: James B. Zongker, Wichita, KS
Edward D. Heath, Jr., Wichita, KS
Matthew L. Bretz, Hutchinson, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director